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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,365	03/28/2001	Jeffrey E. Callen	4173-00005	4337

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EXAMINER

LUK, EMMANUEL S

ART UNIT

PAPER NUMBER

1722

DATE MAILED: 08/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/819,365

Applicant(s)

CALLEN ET AL.

Examiner

Emmanuel S. Luk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 14 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1,3-11 and 13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1, 3-11 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Schad.

Schad clearly teaches a multi shot injection mold having first shot cavity (25'), a second shot cavity (32), a rotating turret (13) that acts as the indexing plate, an ejector station (Fig. 1), first, second and third core retainers (20), the turret rotates in 120° increments (Fig. 1) (Col. 6, lines 53-59), the means for advancing the turret via the turret rotates to the positions (Col. 6, lines 38-47), the stripper (34) being the ejector plate that is removes the product from the cores. The turret rotates 120° due to only three positions available in the embodiment of Fig. 1. Means for advancing the turret is inherently taught due to the turret advancing.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 6-9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schad in view of Julian et al and Rees et al.

Schad teaches the claimed apparatus as shown above. Schad fails to teach the ejector plate on guide rods with stops, ejector cradle, a limit switch and overmolded pen barrels.

Julian teaches the stripping motion of the products (62) from the cores (28) via stripper plate (18) that are on guide rods (42). The stripping motion is advanced via pushrod (114) and moves the stripper to the fullest extent by the extension of the pushrod.

In regards to the ejector cradle, Schad teaches the stripper plate and it is merely a change in shape of the plate to form a 'cradle' and still retain the function of ejecting the product from the cores. In re Dailey et al, 149 USPQ 47 (CCPA 1966).

In regards to the limit switch, both Schad and Julian teach the movement of the stripper to eject the product and the subsequent return to the original position. It would have been obvious to employ some sort of control for the movement of the strippers and

a limit switch is one commonly used control device. Rees teaches limit switches (45) that for activation of stripper plate (18) movement (Col. 2, lines 51-66).

In regards to the pen barrels, this shape of the mold is merely a change in shape from the mold cavity taught by Schad. In re Dailey et al, 149 USPQ 47 (CCPA 1966).

It would have been obvious to one of ordinary skill in the art to modify Schad with a guide rod as taught by Julian because it ensures the alignment of the stripper movement and a limit switch taught by Rees because it ensures when the stripper is activated.

4. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schad (4422995) in view of Tate et al (5518392).

Schad clearly teaches a multi shot injection mold having first shot cavity (25'), a second shot cavity (32), a rotating turret (13) that acts as the indexing plate, an ejector station (Fig. 1), first, second and third core retainers (20), the turret rotates in 120° increments (Fig. 1) (Col. 6, lines 53-59), the means for advancing the turret via the turret rotates to the positions (Col. 6, lines 38-47), the stripper (34) being the ejector plate that is removes the product from the cores. The turret rotates 120° due to only three positions available in the embodiment of Fig. 1. Means for advancing the turret is inherently taught due to the turret advancing.

Schad fails to teach an ejector cradle and a support plate for first and second shot cavity and an ejector station fixed thereon.

In regards to the ejector cradle, Schad teaches the stripper plate and it is merely a change in shape of the plate to form a 'cradle' and still retain the function of ejecting the product from the cores. In re Dailey et al, 149 USPQ 47 (CCPA 1966).

Tate teaches an injection blow molding apparatus that includes an ejection station (3) all positioned on a rotatable plate (40), the plate and stations are all positioned over the frame (25) of the machine. In regards to the support plate, Tate teaches a frame that acts as a support plate upon which the elements are fixed thereon. The ejection plate would therefore be fixed at the ejection station that is also fixed upon the support plate. The ejection cradle, or stripper, is actuated by the ejection station to remove the articles but also remains with the pins as it rotates to the various stations.

It would have been obvious to one of ordinary skill in the art to modify Schad with a support plate as taught by Tate because it would allow for support for the molding elements in the injection molding machine.

Response to Arguments

5. Applicant's arguments filed 7/17/03 have been fully considered but they are not persuasive. The applicants argue that the new amendment overcomes the rejection. However, the changes to claim 10 do not make it allowable, in fact Tate is now combined with Schad for a new rejection that addresses the changes. In regards to the ejection plate being perpendicular to the plane of rotation, this is dependent upon the point of reference. In this case, the ejector plate that engages at the ejection station can be viewed as perpendicular to the plane of rotation of the indexing plate.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emmanuel S. Luk whose telephone number is (703) 305-1558. The examiner can normally be reached on Monday through Friday 8 to 4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on (703) 308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.

E.L.
July 30, 2003


W. L. WALKER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700